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06 DEC 2005

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SANTANGELO LAW OFFICES, P.C.  
125 SOUTH HOWES, THIRD FLOOR  
FORT COLLINS, CO 80521

In re Application of	:	
SCHENK, John L. et al.	:	
Application No.: 10/522,320	:	DECISION ON
PCT No.: PCT/US03/22906	:	
Int. Filing Date: 22 July 2003	:	PETITION UNDER
Priority Date: 22 July 2002	:	
Attorney Docket No.: XY-Optimum-USNP	:	37 CFR 1.47(a)
For: SPERM CELL PROCESS SYSTEM	:	

This is in response to applicants' "Petition to Accept Patent Application From Other Than All Inventors," filed in the United States Patent and Trademark Office (USPTO) on 17 October 2005.

**BACKGROUND**

On 22 July 2003, applicants filed international application PCT/US03/22906, claiming a priority date of 22 July 2002. The deadline for paying the basic national fee in the United States expired at midnight on 24 January 2005 (22 January 2005 was a Saturday).

On 24 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 17 August 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On 17 October 2005, applicants submitted the instant petition accompanied by the required fee, a declaration of an inventor and a firsthand statement of facts.

**DISCUSSION**

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (2), (3) and (4) have been satisfied. The fee under 37 CFR 1.17(h) has been paid. Applicants have supplied evidence that the non-signing inventor was presented with a

complete copy of the application papers and has not returned a signed declaration. Applicants state that the last known address of inventor Allison C. Lindsey is 236 North Overland Trail, Fort Collins, CO 80521. The declaration submitted complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

### **CONCLUSION**

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **17 October 2005**.



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Dear Ms. Lindsey:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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